

**Wireless Interoperability and Proof of Concept
RFP # 050R6800087
Questions and Answers, Set #3**

Question 1: Question with regard to Attachment H of the subject RFP: See the last sentence of item 8 of that attachment; it states: "If signed below by an individual employee or agent of OFFEROR under Section 2 of this Agreement, such individual acknowledges that a failure to comply with the requirements specified in this Agreement may result in personal liability."

Since a corporation is responsible for the acts of its employees acting within the scope of their employment, may we assume that the foregoing language indicating personal liability does not apply to an employee of a corporation signing this Attachment within the scope of his employment? Our Corporate Legal Counsel has a concern with the language the way it currently reads and I need to resolve the issue as soon as possible in order to obtain the information needed to complete our proposal.

That is, Is it the State's intent to hold an individual employee of a corporation personally liable (i.e. to sue the individual for his personal assets, such as his home) in addition to holding the corporation liable for the disclosure, if that individual employee was responsible for disclosing information covered by the NDA?

Answer 1: Under section 2 of Attachment H, Non-Disclosure Agreement (NDA), each employee or agent of the contractor who has access to the State's confidential information agrees to execute an NDA in his or her individual capacity. The justification for this requirement is that individual employees have access to and control over the confidential information and by signing onto the NDA, they acknowledge their personal responsibility to ensure that the information is not released.

Amendment # 5 (forthcoming) will read: "The individual signing (the contract) warrants and represents that they are fully authorized to bind OFFEROR to the terms and conditions specified in this Agreement. If signed by an individual employee or agent of OFFEROR under Section 2 of this Agreement, such individual acknowledges that a failure to comply with the requirements specified in this Agreement may result in personal liability with regard to such person's actions.

Question 2: Section 3.4.6.3 requests at least 3 references from customers. Must these references be signed by the customer or can we just give a citation with points of contact?

Answer 2: No. References do not have to be signed. The State will research references, but the information required by Section 3.4.6.3 must be submitted.

Question 3: We intend to use a subcontractor in performance of the contract that will be using several independent consultants. We also intend to include in the proposal commitment letters from these independent consultants. Is this acceptable?

Answer 3: Yes but be certain you identify your intended subcontractors and their roles in accordance with the RFP Section 3.4.14.

Question 4: Section 1.21 states in the second and third sentences: "Any exceptions to this RFP or Contract must be clearly identified in the Executive Summary of the technical proposal. A proposal that takes exception to these terms may be rejected." If an Offer

Wireless Interoperability and Proof of Concept

RFP # 050R6800087

Questions and Answers, Set #3

takes exception that is not acceptable to the State, will the proposal be summarily rejected? Will the State give the Offeror the opportunity to withdraw the exception without prejudice? What is the process in this regard?

Answer 4: The Offeror will have at least one opportunity to withdraw the exception without prejudice; the process will involve written notice of the State's position regarding its exceptions. If the State and the Offeror cannot reach an accord on exceptions, the Offeror's proposal might be rejected at that time.

Question 5: Amendment #3 has clarified the coverage requirements for the proof of concept network. Are there any additional requirements in terms of

- 1) On-ground signal strength, and
- 2) Expected data rate?

Answer 5: To clarify your question, Amendment #3 provided the coverage requirements for the System Detailed Design Document, which will be used to choose a "proof of concept site", not a complete "proof of concept network". I.) There are no additional requirements for on-ground signal strength for the System Detailed Design Document. ii.) There are no additional requirements in terms of the expected data rate in the RFP because the contractor will be responsible for gathering this data from the identified Stakeholders in the Functional Requirements completed as Task 3 of the RFP. For further clarification, please see question 4 of the Q & A, Set 2.

Question 6: Is there a due date for the submission of RFP related questions?

Answer 6: The State does not routinely cut questions off entirely; rather we will use our judgment and reserve the right to determine if the question is substantive. If it is, the question will be answered and if in the State's judgment, it is not substantive, the question may not be answered.

Question 7: What is meant by the 'Not to Exceed' wording. Is this the same as 'Fixed Price' contract?

Answer 7: The not to exceed language has been removed. See Amendment # 4

Question 8: Would the State support a Prime Contractor bid and a subcontractor bid (via another Prime Contract proposal) from the same company?

Answer 8: Yes, a vendor that is responding to an RFP by sending in a proposal as a prime, can also be available to another vendor as a sub-contractor on the same RFP.. For example, Firm A wants to bid a job as the Prime. They respond to the RFP as the Prime. In case they do not win, Firm A is willing to sign on with Firm B as a sub-contractor. This is acceptable to the State.

Question 9: Does "alternative" proposal mean the same thing as "alternate" proposal?

Answer 9: Yes, the words mean the same thing in reference to this RFP. "Alternate" is the more widely accepted method to describe a single proposal. The key point is that alternate proposals will not be accepted per RFP Section 1.18.

Wireless Interoperability and Proof of Concept

RFP # 050R6800087

Questions and Answers, Set #3

Question 10: Has the State identified and secured funding for Phases I through III of this effort?

Answer 10: The State will fund any contract it awards with the caveat for multi-year contracts in Attachment A, Section 16.

Question 11: During the pre-bid conference the State mentioned it did not have a firm contract award date. For contractor pricing purposes, we recommend the State establish an assumed contract award date for contractors to use to develop the contract price.

Answer 11: When the evaluation process is complete, the State intends to make an award recommendation subject to approval by the Board of Public Works. Although we cannot predict or assume when that might happen, the State is proceeding with an urgency of need to award as soon as practical."

Question 12: During the pre-bid conference a question was raised from the floor regarding if the use of land mobile radio technology was mandatory for this system, or if other technology could be considered. Please identify the State's intent in this area.

Answer 12: The State's intent is to use land mobile radio technology (LMR) for the Statewide Interoperable Radio System.

Question 13

MBE participation, while a stated goal in the RFP, is not going to be evaluated as a factor for award. Recommend the State reconsider this position and include MBE participation as a factor for contract award. Without MBE being a factor for contract award, there is no incentive meet the stated goal.

Answer 13: It is not legally permissible to use MBE participation as an evaluation factor. However, offerors who commit to an MBE participation level less than what has been established in the RFP (in this instance 25%) must request a waiver at the time of proposal submission (see RFP Attachment D-1). Upon completion of the proposal evaluation phase (see RFP Section 4.5) if such an offeror is notified by the State that they are the apparent awardee, its waiver documentation will be requested and reviewed at that time. If the waiver request is denied, the Department, pursuant to COMAR 21.11.03.10D, may withdraw the award recommendation. So, although MBE participation does not factor into the evaluation process itself, any offeror who does not meet the MBE requirement greatly increases its risk of not being awarded the contract, despite being otherwise qualified.

Question 14: Request the State allow contractors to modify completion dates for tasks identified in the RFP to reflect best practices for projects of this type so long as the overall set of tasks can be completed within the two-year time period required by the State. Specifically, request the expected completion dates for Task 6, "Develop System Implementation Plan", and Task 7, "Develop Phase III Detailed Design and Project Management Plan", be adjusted to NTP + 11 months and NTP + 12 months respectively. This would allow all tasks to be completed within the two year limit specified by the State and would result in a better set of products to be delivered by the Contractor.

Answer 14: The State will provide an answer to this question as soon as possible.

**Wireless Interoperability and Proof of Concept
RFP # 050R6800087**

Questions and Answers, Set #3

Question 15: Is the contractor performing the Statewide Tower Assessments excluded from being awarded a contract, or a subcontract, for this procurement?

Answer 15: No, so long as the inventory it produces and the work it does on the Statewide Tower Equipment Installation and Services RFP are not viewed as assisting the State in drafting the specifications for this RFP. To the extent that the vendor's involvement is limited to the inventory collection, is of an administrative nature, is available to all vendors, and does not place the Tower contractor at an unfair advantage over the other vendors for this RFP, the vendor would not be disqualified from participating in this procurement.

Question 16: What measures have been or will be instituted by the State to ensure that necessary stakeholders will be available when required to interact with the contractor during information gathering activities to minimize cost and schedule risk under this fixed price contract?

Answer 16: The State Project Team will assist the Contractor in contacting the stakeholders, most of which are actively involved with the development of some aspect of the Statewide Interoperability Radio System, thus have a vested interest in the success of this RFP.

Question 17: Will the tower assessments, to be completed in March 2006, contain a current engineering load analysis for each tower and the amount of available shelter space at each tower location?

Answer 17: The tower assessments, to be completed in May 2006 will not contain a current engineering load analysis for each tower, but will document the available shelter space at each tower location.

Question 18: Page 7 of the RFP says that "Before a corporation can do business in the State it must be registered with the Department of Assessments and Taxation, State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. It is strongly recommended that any potential Offeror complete registration prior to the due date for receipt of proposals." Is this applicable to all sub-contractors involved with an effort or merely the "Offeror"?

Answer 18: Under Maryland law, all foreign corporations doing business in the State, including those acting as subcontractors, must be registered with State Department of Assessments and Taxation (SDAT). The cited provision applies to the subcontractor as well as the Offeror. Foreign means businesses registered outside the State of Maryland.